IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 2177 (SS) OF 2001

(Old No. 53526/1999)

Balbir Singh Kunwar,
S/o Sri Surinder Singh Kunwar,
Working as Driller in Research & Planning,
Irrigation Department, Pithoragarh. ....Petitioner.

Versus

1. Chief Engineer, Irrigation Department, Cantt. Road, Lucknow.
2. Chief Engineer (North) Irrigation Department Haldwani, District – Nainital.
3. Superintending Engineer, Research and Planning Irrigation Department, Pithoragarh.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri V.B.S. Negi, Advocate for the petitioner and Standing Counsel for the respondents no. 2 and 3.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 21.05.1998 passed by the respondent no.2. Further prayer has been made for a writ of mandamus directing the respondents to regularize the service of the petitioner in the pay-scale of Rs. 950-1500.

Briefly stated, according to the case of the petitioner, he was appointed as Compressor, Operator in the Irrigation Department at Tehri, District Tehri Garhwal on 01.04.1968. Thereafter, on 20.02.1973, he was promoted and appointed as Driller in the pay-scale of Rs. 950-1500 per month in the same

department and the petitioner as Driller was transferred from various places and at present the petitioner is working as Driller in the office of respondent No. 3.

Counsel for the petitioner has submitted that there was a labour dispute regarding the regularization of the several employees including the petitioner working in the Irrigation Department and in pursuance of the aforesaid dispute, the Labour Court directed the respondents to regularise the services of the petitioner on the said post of Driller.

Petitioner has submitted that in pursuance of the directions issued by the labour Court, the Deputy Commissioner U.P. Lucknow directed the respondent to regularize the services of the petitioner on the same post of driller immediately, but the grievances of the petitioner is that in spite of the aforesaid direction, he has been regularized on the post of Mate.

Regarding his grievance, the petitioner has preferred a representation to the respondent no. 2 on 03.06.1998 and when nothing was done, the petitioner again made a representation on 07.09.1998, and again on 11.01.1999 stating his grievances.

On 28.10.1998, the Chief Engineer Irrigation Department U.P. Haldwani District Nainital wrote a letter to the Chief Engineer Irrigation Department, Lucknow regarding the representations of the petitioner and requested the Chief Engineer Irrigation Department U.P. Lucknow to pass the necessary order for the absorption of the petitioner in the pay scale of Rs. 950-1500.

In reply, the Chief Engineer Irrigation Department Lucknow directed the Chief Engineer Irrigation Department Haldwani on 05.02.1999 that he is the competent authority to

pass the necessary order in pursuance of the order of the Labour Court.

The Chief Engineer Haldwani in spite of the direction of the Chief Engineer Irrigation Department Lucknow did not pass any order for regularizing the petitioner on the post of Driller. The Executive Engineer Research and Planning Irrigation Department Pithoragarh also wrote a letter to the Superintending Engineer on 09.02.1999 recommending that the petitioner may be regularized and absorbed as a Driller in accordance with the direction of the labour Court and also on the basis of various letters issued by the Chief Engineer,

When nothing was done, the petitioner again submitted the last representation on 17.09.1999 to absorb the petitioner as Driller in pursuance of the direction issued by the Chief Engineer Lucknow, but nothing has yet been done.

However, looking to the grievance of the petitioner, liberty is given to him to file a fresh and detailed representation stating his grievances within a period of two weeks from the date of presentation of the certified copy of the order.

If such a representation is filed, the same shall be disposed of along with the old representations and respondent shall consider the case of the petitioner for regularization on the post of Driller within a period of four weeks thereafter taking into consideration the recommendation of the Executive Engineer as well as Superintending Engineer in accordance with law.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

30.03.2006
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